

PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA

Commercial and Industrial Streamlining Ordinance Amendments, Phase II, File No. PP08-124.

This project consists of streamlining requirements for specific uses within the City's Commercial and Industrial Zoning Districts. The proposal is intended to minimize impediments to retail and outdoor uses in Commercial Zoning Districts, minimize impediments to industrial uses in facilities in Industrial Zoning Districts, and facilitate commercial and industrial uses by creating the Combined Industrial/Commercial Zoning District, thereby encouraging and fostering commercial and industrial businesses.

California State Law requires the City of San José to conduct environmental review for all pending projects. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. Based on an initial study, the Director of Planning, Building & Code Enforcement has concluded that the project described above will not have a significant effect on the environment. The project location **does not** contain a listed toxic site.

The purpose of this notice is to inform the public of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on October 15, 2008, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **September 24, 2008** and ends on **October 15, 2008**. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance.

The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp>

For additional information, please call Carol Hamilton at (408) 535-7837 or Sylvia Do at (408) 535-7906.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Deputy

Circulated on: September 24, 2008

NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. “Significant effect on the environment” means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Commercial and Industrial Streamlining Ordinances, Phase II

PROJECT FILE NUMBER: PP08-124

PROJECT DESCRIPTION: The project consists of amendments to Chapters 20.40, 20.50, 20.70, 20.80, 20.90, 20.100, and 20.200 of the Zoning Code, Title 20 of the San Jose Municipal Code, as follows:

Commercial Streamlining		
Use or Development Regulation	Existing Requirements	Proposed Requirements
Sale of passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles	<ul style="list-style-type: none"> Allowed with a Conditional Use Permit in CN Commercial Neighborhood and CP Commercial Pedestrian District; incidental vehicle repair allowed with a Conditional Use Permit in CG Commercial General District. 	<ul style="list-style-type: none"> Allow with a Special Use Permit in CN Commercial Neighborhood District and allow incidental vehicle repair with a Special Use Permit in CG Commercial General District.
Retail art studio, in which artistic items are created and sold on the premises	<ul style="list-style-type: none"> Not an enumerated use. Manufacturing not allowed in Commercial Districts. 	<ul style="list-style-type: none"> Allow as a permitted use in CP Commercial Pedestrian, CN Commercial Neighborhood, CG Commercial General, CIC Combined Industrial/Commercial, DC Downtown Core, and DC-NT1 Downtown Core – Neighborhood Transition 1 Districts. Maximum 1,500 square feet of total floor area devoted to handcrafting, assembling or fabricating crafts. Minimum of 25% of total floor area devoted to retail sales. Parking: 1 per 200 square feet of retail floor area; 1 per 400 square feet if on ground floor in Neighborhood Business District.

Commercial Streamlining (continued)		
Use or Development Regulation	Existing Requirements	Proposed Requirements
Outdoor dining incidental to a retail establishment or a public eating establishment	<ul style="list-style-type: none"> Outdoor dining is not an enumerated use. Parking requirement for outdoor dining is the same as for a public eating establishment – 1 space per 2.5 seats or 40 square feet of dining area, whichever require the greater number of spaces. 	<ul style="list-style-type: none"> Enumerate outdoor dining as a permitted use incidental to a retail establishment or a public eating establishment in Commercial and Industrial Districts. Special Use Permit may be required if within 150 feet of residentially zoned property. No parking requirement for the first 25 outdoor dining seats; additional parking beyond the first 25 seats require 1 space per 2.5 seats.
Outdoor uses in Commercial Districts within 150 feet of residentially zoned property	<ul style="list-style-type: none"> Special Use Permit required for outdoor uses except: seasonal sales, service windows associated with financial institutions for pedestrians, automatic vending machines, and plant nursery sales. 	<ul style="list-style-type: none"> Exempt outdoor dining incidental to a retail establishment or a public eating establishment from Special Use Permit requirement if the use is separated from residentially zoned property by a non-residential building or a minimum of 100 feet, including a public right-of-way.
Outdoor private property special events (e.g., farmer's markets)	<ul style="list-style-type: none"> Requires a Special Use Permit if the event will not exceed 30 days or does not meet requirements for an Event Permit. Requires a Conditional Use Permit if event exceeds 30 days or does not meet requirements for an Event Permit. 	<ul style="list-style-type: none"> Allow with a Special Use Permit if the event will not exceed 30 consecutive days and 45 days total, or does not meet requirements for an Event Permit. Allow with a Conditional Use Permit if the event exceeds 30 consecutive days and 45 days total, or does not meet requirements for an Event Permit.
Front setback exception	<ul style="list-style-type: none"> Requires, in certain circumstances, that a commercial property conform to the front setback of the adjacent Residential Zoning District. 	<ul style="list-style-type: none"> Specifies that the residential front setback applies only to that portion of the commercial property located within 20 feet of the Residential Zoning District.
Parking requirement for public uses	<ul style="list-style-type: none"> Parking requirements are prescribed for public uses such as elementary schools, secondary schools, museums, and libraries. 	<ul style="list-style-type: none"> Clarify that Title 20 does not regulate parking requirements for public uses by deleting all references to "public" and "private."

Industrial Streamlining		
Use or Development Regulation	Existing Requirements	Proposed Requirements
"CM" permit requirement	<ul style="list-style-type: none"> CM denotes uses allowed with a Conditional Use Permit on properties with Mixed Industrial Overlay, as designated by the General Plan. 	<ul style="list-style-type: none"> Change from "CM" to "C^{GP}." C^{GP} denotes uses allowed with a Conditional Use Permit on properties with Mixed Industrial Overlay or Combined Industrial/Commercial properties, as designated by the General Plan.

Industrial Streamlining (continued)		
Use or Development Regulation	Existing Requirements	Proposed Requirements
CIC Combined Industrial/Commercial Zoning District	<ul style="list-style-type: none"> Not an enumerated zoning district. 	<ul style="list-style-type: none"> Create a CIC Combined Industrial/Commercial District with use regulations that align with the General Plan's description of Combined Industrial/Commercial. Permitted and conditional uses include a compatible mixture of commercial, office, and industrial uses of the CG Commercial General, IP Industrial Park, and LI Light Industrial Districts. Establishment development regulations similar to that of the IP Industrial Park District.
Laboratory, medium manufacturing and assembly, and warehouse	<ul style="list-style-type: none"> Allowed with a Special Use Permit in IP Industrial Park District. 	<ul style="list-style-type: none"> Allow as a permitted use in IP Industrial Park District.
Offices, research and development	<ul style="list-style-type: none"> Not an enumerated use. 	<ul style="list-style-type: none"> Enumerate as a permitted use in the CIC Combined Industrial/Commercial and IP Industrial Park Districts. Parking: 1 space per 300 square feet.
Crematory	<ul style="list-style-type: none"> Allowed with a Conditional Use Permit in LI Light Industrial District with Mixed Industrial Overlay, as designated by the General Plan, and in HI Heavy Industrial District. 	<ul style="list-style-type: none"> Allow with a Conditional Use Permit in LI Light Industrial District in addition to HI Heavy Industrial District.
Mortuary without funeral services	<ul style="list-style-type: none"> Not an enumerated use. 	<ul style="list-style-type: none"> Allow as a permitted use in LI Light Industrial and HI Heavy Industrial Districts.
Warehouse retail	<ul style="list-style-type: none"> Not an enumerated use. 	<ul style="list-style-type: none"> Enumerate and allow with a Special Use Permit in IP Industrial Park, LI Light Industrial, and HI Heavy Industrial Districts. Minimum 10,000 square feet of floor area, with minimum 90% of retail display of large items (e.g., furniture, appliances and machinery). Parking: Minimum 1 space per 2,000 square feet of floor area; maximum 1 space per 250 square feet.
Day care center	<ul style="list-style-type: none"> Allowed with a Conditional Use Permit in IP Industrial Park, LI Light Industrial and HI Heavy Industrial Districts with Mixed Industrial Overlay, as designated by the General Plan. 	<ul style="list-style-type: none"> Eliminate day care center as a Conditional Use in the HI Heavy Industrial District with the Mixed Industrial Overlay, as designated by the General Plan.

Industrial Streamlining (continued)		
Use or Development Regulation	Existing Requirements	Proposed Requirements
Miniwarehouse/mini storage	<ul style="list-style-type: none">▪ Permitted in LI Light Industrial and HI Heavy Industrial Districts.	<ul style="list-style-type: none">▪ Clarify that miniwarehouse/ministorage uses may include an incidental caretaker unit.
Above-ground storage tanks	<ul style="list-style-type: none">▪ Allowed with a Site Development Permit.	<ul style="list-style-type: none">▪ Allow above-ground storage tanks 2,000 gallons or less with a Permit Adjustment.

PROJECT LOCATION: Citywide

COUNCIL DISTRICT: Citywide

CONTACT INFORMATION: Sylvia Do, Department of Planning, Building and Code Enforcement, City of San Jose, Third Floor Tower, 200 East Santa Clara Street, San Jose, CA 95113. Email: sylvia.do @sanjoseca.gov

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies no potentially significant effects on the environment would be likely to result from implementation of the project.

- I. AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- II. AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- III. AIR QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- IV. BIOLOGICAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- V. CULTURAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VI. GEOLOGY AND SOILS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VII. HAZARDS AND HAZARDOUS MATERIALS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VIII. HYDROLOGY AND WATER QUALITY** – The project will not have a significant impact

on this resource, therefore no mitigation is required.

- IX. LAND USE AND PLANNING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- X. MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XI. NOISE** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XII. POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIII. PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIV. RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XV. TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVI. UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVII. MANDATORY FINDINGS OF SIGNIFICANCE** – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on October 15, 2008, any person may:

- (1) Review the Draft Negative Declaration (ND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft ND. Before the ND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft ND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final ND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, San José CA 95113-1905 and include a \$100 filing fee. The written protest should make a “fair argument” based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed

public review period, the Director may (1) adopt the Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft ND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Joseph Horwedel, Acting Director
Planning, Building and Code Enforcement

Circulated on: September 24, 2008

Deputy

Adopted on: _____

Deputy

ND/SD 9-16-08